MONTANA LEGISLATIVE HISTORY

Chapter 286 19 91

Bill H _____ S 335 Original bill & history ✓ C

H. Committee on Business & Economic Development			S. Committee on Business & Industry		
Hearing Date(s)	Mar 14	✓ C	Hearing Date(s)	Feb 18	✓ C
		C			C
		C			C
		C			C
Date Out	Mar 14	✓ C		Feb 18	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

2/14	FISCAL NOTE PRINTED		
2/15	COMMITTEE REPORT—BILL PASSED		
2/16	2ND READING PASSED	48	0
2/18	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO TAXATION		
4/04	HEARING		
4/08	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/11	2ND READING CONCURRED	96	2
4/12	3RD READING CONCURRED	94	1
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS NOT CONCURRED	49	0
4/18	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE DISSOLVED		
4/22	FREE CONFERENCE COMMITTEE APPOINTED		
4/23	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/24	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/24	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
	HOUSE		
4/19	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE DISSOLVED		
4/22	FREE CONFERENCE COMMITTEE APPOINTED		
4/23	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/24	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	100	0
4/24	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	95	5
4/30	SIGNED BY PRESIDENT		
5/03	SIGNED BY SPEAKER		
5/03	TRANSMITTED TO GOVERNOR		
5/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 807	EFFECTIVE DATE: 12/31/91	

SB 334 INTRODUCED BY HARDING, ET AL.

REVISE PERSONAL LIABILITY FOR COUNTY OFFICIALS WHO EXCEED BUDGETS

2/08	INTRODUCED		
2/08	REFERRED TO LOCAL GOVERNMENT		
2/09	FIRST READING		
2/19	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED		
2/23	2ND READING PASSED	49	0
2/25	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO LOCAL GOVERNMENT		
3/13	HEARING		
3/14	COMMITTEE REPORT—BILL CONCURRED		
3/14	PLACED ON CONSENT CALENDAR		
3/16	3RD READING CONCURRED	96	1
	RETURNED TO SENATE		
3/21	SIGNED BY PRESIDENT		
3/22	SIGNED BY SPEAKER		
3/23	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 194	EFFECTIVE DATE: 10/01/91	

SB 335 INTRODUCED BY NOBLE, ET AL.

REVISE EXCAVATION PROCEDURES NEAR UNDERGROUND

2

FACILITIES

2/08	INTRODUCED		
2/08	REFERRED TO BUSINESS & INDUSTRY		
2/09	FIRST READING		
2/18	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	49	0
2/21	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
3/14	HEARING		
3/14	COMMITTEE REPORT—BILL CONCURRED		
3/16	2ND READING CONCURRED	87	4
3/18	3RD READING CONCURRED	97	1
	RETURNED TO SENATE		
3/23	SIGNED BY PRESIDENT		
3/23	SIGNED BY SPEAKER		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 286	EFFECTIVE DATE: 10/01/91	

SB 336 INTRODUCED BY PIPINICH, ET AL.

CLARIFY INTERRELATIONSHIP OF UNIFORM AND GOVERNMENT HEALTH INFORMATION ACTS

BY REQUEST OF DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES

2/09	INTRODUCED		
2/09	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/09	FIRST READING		
2/18	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED		
2/19	PLACED ON CONSENT CALENDAR		
2/22	3RD READING PASSED	48	1
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO HUMAN SERVICES & AGING		
3/21	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED		
3/23	PLACED ON CONSENT CALENDAR		
4/05	3RD READING CONCURRED	94	4
	RETURNED TO SENATE		
4/11	SIGNED BY PRESIDENT		
4/12	SIGNED BY SPEAKER		
4/12	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 432	EFFECTIVE DATE: 4/15/91	

SB 337 INTRODUCED BY RYE

FULLY INFORMED JURY

2/09	INTRODUCED		
2/09	REFERRED TO JUDICIARY		
2/09	FIRST READING		
2/21	HEARING		
2/22	COMMITTEE REPORT—BILL NOT PASSED		
2/22	ADVERSE COMMITTEE REPORT ADOPTED	45	4

SB 338 INTRODUCED BY BURNETT

REVISE MEAT INSPECTION PROGRAM BY ELIMINATING LAY MEAT INSPECTORS

SENATE BILL NO. 335

INTRODUCED BY NOBLE, MESSMORE, WALLIN, RYE, HARP, KILPATRICK, WATERMAN, DRISCOLL

IN THE SENATE

FEBRUARY 8, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
FEBRUARY 9, 1991	FIRST READING.
FEBRUARY 18, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 19, 1991	PRINTING REPORT.
FEBRUARY 20, 1991	SECOND READING, DO PASS.
FEBRUARY 21, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
MARCH 14, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 16, 1991	SECOND READING, CONCURRED IN.
MARCH 18, 1991	THIRD READING, CONCURRED IN. AYES, 97; NOES, 1.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 19, 1991	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

LC 1413/01

Senate BILL NO. 335

INTRODUCED BY Little Mesmore Walker Ryan HARP

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EXCAVATION PROCEDURES NEAR UNDERGROUND FACILITIES; REQUIRING THAT ENTITIES AND PERSONS THAT HAVE THE RIGHT TO BURY UNDERGROUND FACILITIES BE MEMBERS OF ONE-CALL NOTIFICATION CENTERS; EXEMPTING PUBLIC AUTHORITIES FROM LIABILITY FOR IMPROPER OR UNAUTHORIZED INSTALLATIONS MADE BY OTHERS; AND AMENDING SECTIONS 69-4-501, 69-4-502, 69-4-503, AND 69-4-504, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-4-501, MCA, is amended to read:

"**69-4-501. Definitions.** The following definitions shall apply to this part:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Emergency" means:

(a) any condition that constitutes a clear and present danger to life or property; or

(b) a customer outage.

~~(1)~~(3) "Excavation" ~~shall--mean-and-include-any-ditch, trench,-cut,-hole,-or-change-in-grade~~ means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means or use of any tools, equipment, or explosives. The term includes but is not limited to grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe plowing and driving. Excavation does not include surface road grading maintenance.

(4) "Identified but unlocatable underground facility" means an underground facility that has been identified but cannot be located with reasonable accuracy.

(5) "Locatable underground facility" means an underground facility that can be field-marked with reasonable accuracy.

(6) "Mark" means the use of stakes, paint, or other clearly identifiable material to show the field location, or absence, of underground facilities, in accordance with the current color code standard of the American public works association. Marking must include identification letters indicating the specific type of underground facility, and the width of the facility if it is greater than 6 inches.

(7) "One-call notification center" means a service through which a person may request a marking of underground facilities.

~~(2)~~(8) "Person" ~~shall---mean--and--include~~ means an individual, partnership, firm, joint venture, ~~or~~ corporation, association, municipality, governmental unit, department, or agency, and includes any trustee, receiver,

INTRODUCED BILL
SB 335

assignee, or a personal representative thereof ~~the employer of an individual~~.

(9) "Reasonably accurate" means location within 18 inches of the outside lateral dimensions of both sides of an underground facility.

~~(3)~~(10) "Underground facility" ~~shall mean~~ means any ~~item of personal property~~ facility ~~which shall be~~ buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, fiber optics, electric energy, oil, gas, or other substances ~~and shall include~~. The term includes but is not ~~be~~ limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to the ~~aforesaid~~ listed items."

Section 2. Section 69-4-502, MCA, is amended to read:

"69-4-502. Information to be sought before excavation -- notification -- exception. (1) No person shall make or begin any excavation in any public street, alley, right-of-way dedicated to the public use, or utility easement without first obtaining information concerning the possible location of any underground facility from each and every public utility, municipal corporation, or other person having the right to bury such underground facilities within the public street, alley, right-of-way, or utility easement.

(2) Every public utility, municipal corporation, or

other person having the right to bury underground facilities shall file with the county clerk and recorder in each county where the underground facilities are located, the name, address, and telephone number of the person or persons from whom the necessary information may be obtained unless a one-call notification center is available.

(3) (a) A public utility, municipal corporation, underground facility owner, or person having the right to bury underground facilities must be a member of a one-call notification center, either statewide or serving each county in which the entity or person has underground facilities.

(b) Subsection (3)(a) does not apply to an owner or occupant of real property where underground facilities are buried if the facilities are used solely to furnish services or commodities to that property and no part of the facilities are located in a public street, alley, or right-of-way dedicated to the public use."

Section 3. Section 69-4-503, MCA, is amended to read:

"69-4-503. ~~Procedure to secure information~~ Notification -- marking. (1) ~~Any person seeking information concerning the location of any underground facility must do so by request in person, in writing, or by telephone~~ At least 2 but not more than 10 business days before beginning any excavation, the excavator shall notify, through a one-call notification center, all owners of underground facilities in

the area of the proposed excavation of the scheduled commencement of the excavation. If a one-call notification center service is not available, notice must be provided individually to the owners of underground facilities within the area of the proposed excavation.

(2) ~~The person from whom such information is sought must record the nature and the date of the request and advise the person seeking the information of the location of any underground facility in writing, if so requested, or by marking the location with stakes or paint or by other clearly identifiable markings. The person providing the information must respond no later than the end of the normal business hours of the second full business day following the date of receipt of the request, Saturdays, Sundays, and holidays excluded~~ Upon receipt of the notice provided for in this section, the owner of the underground facility shall provide the excavator with reasonably accurate information as to the owner's locatable underground facilities by surface marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of the facilities shall provide the excavator with the best available information as to their locations. Excavators may not excavate until all known facilities have been marked. Once the facilities are marked by the facility owner, the excavator is responsible for maintaining the markings.

(3) Upon receipt of notice from the excavator, the facility owner shall respond within 2 business days by marking the facility. An excavator may not begin excavating before the marking is complete or before he is notified that marking is unnecessary.

(4) A facility owner may request the excavator to mark the area to be excavated. If an excavator discovers an unmarked underground facility, the excavator shall stop excavating in the vicinity of the facility and notify the facility owner or the one-call notification center."

Section 4. Section 69-4-504, MCA, is amended to read:

"69-4-504. **Information to be part of architects' and engineers' plans.** (1) Architects and engineers designing projects requiring excavation in or adjacent to any public street, alley, or right-of-way dedicated to public use or utility easement shall obtain information from the owners of underground facilities and then make ~~said~~ the information a part of the plan by which the contractors operate. The owners of the underground facilities shall provide substantially the same information as required by 69-4-503.

(2) Nothing in this section shall excuse any person from the obligation imposed by 69-4-502(1)."

NEW SECTION. **Section 5. Public authority -- liability.** A public authority, as defined in 18-1-201, that has jurisdiction over a right-of-way is not liable for improper

1 or unauthorized installations made by persons or entities
2 other than the public authority or those acting at its
3 discretion.

4 NEW SECTION. **Section 6.** Codification instruction.
5 [Section 5] is intended to be codified as an integral part
6 of Title 69, chapter 4, part 5, and the provisions of Title
7 69, chapter 4, part 5, apply to [section 5].

-End-

CHAIRMAN--J. D. LYNCH
SECRETARY-DARA ANDERSON
NORMAL SCHEDULE==> SITE: ROOM 410 DAYS: M,T,W,T,F TIME: 10:00 A.M.

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0316	2/08	2/22		TABLED ON 02/22		
BLAYLOCK, CHET			ADD PARTIAL HOSPITALIZATION BENEFITS TO MENTAL ILLNESS, ALCOHOL, DRUG POLICY			
SB0323	2/08	2/21		PASS AS AMENDED		2/21
BECK, TOM			REVISING MOTOR VEHICLE DEALER LAW			
SB0324	2/08	2/18		ADVERSE RPT ADOPT		2/22
WILLIAMS, BOB			PROHIBIT COLLISION DAMAGE WAIVERS IN AUTOMOBILE RENTAL AGREEMENTS			
SB0330	2/08	2/20		DO PASS		2/20
MANNING, DICK			ALLOW BD OF HORSERACING EXEC SECY TO PRESCRIBE STATE STEWARD SALARY & DUTIES			
SB0335	2/08	2/18		PASS AS AMENDED		2/18
NOBLE, JERRY			REVISE EXCAVATION PROCEDURES NEAR UNDERGROUND FACILITIES			
SB0360	2/18	2/21		DO PASS		2/21
GAGE, DEL			CONFIDENTIALITY AND EVIDENTIAL PRIVILEGE FOR ACCOUNTING REVIEW BOARDS			
SB0361	2/13	2/19		PASS AS AMENDED		2/21
THAYER, GENE			REVISE AIRPORT AUTHORITY ACT			
SB0363	2/13	2/20		PASS AS AMENDED		2/21
MANNING, DICK			REVISE SIMULCAST RACES AND EXOTIC WAGERING WITHHOLDING			
SB0366	2/13	2/19		PASS AS AMENDED		2/19
FRANKLIN, EVE			REQUIRE HEALTH INSURANCE COVERAGE FOR MAMMOGRAPHY EXAMINATIONS			
SB0380	2/14	2/21		ADVERSE RPT ADOPT		2/21
RYE, DAVID			REGULATION AND LICENSE FEES BE USED BY INSURANCE DEPARTMENT FOR OPERATIONS			
SB0387	2/14	2/21		PASS AS AMENDED		2/22
THAYER, GENE			REQUIRE LANDLORD PROVIDE TENANT WITH COPY OF LAWS PERTINENT TO SEC. DEPOSITS			

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on February 18, 1991, at 10:00 a.m.

ROLL CALL

Members Present:
J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 324

Presentation and Opening Statement by Sponsor:

Senator Bob Williams, sponsor of the bill, presented the bill (See Exhibit 1 and Exhibit 1A).

Proponents' Testimony:

Steve Browning, a private attorney speaking on behalf of state farm insurance, stated that this piece of legislation is based on the national association of insurance commissioners model legislation. It has been enacted in a number of states. It is a consumer bill, and it avoids the confusion in a person's mind when they go to rent a car. The responsibility of coverage is with the car rental company, and there is no liability as a renter unless you intentionally inflict damage on that car.

Jacqueline Terrell, representing the American insurance association, spoke in favor of the bill (See Exhibit 2).

Spokane, it costs her three hundred dollars to insure her rental car.

Closing by Sponsor:

Senator Bob Williams stated that this bill will eliminate any confusion when an individual goes to rent a vehicle. This is a consumer bill.

HEARING ON SENATE BILL 335

Presentation and Opening Statement by Sponsor:

Senator Jerry Noble, sponsor of the bill, stated that SB 335 is a law strengthening Montana's underground excavation one call notification state law. There is a law providing for notification for contractors and others in the existence of underground facilities such as power lines, gas lines, communication lines, and water lines. However, the law does not provide for that information to centrally available to all who might excavate. Most utilities in the state participate in a one call system in which they are notified in the upcoming excavation near their lines. The utility then marks their line locations prior to excavation by the contractor allowing the work to proceed with safety and no damage to the lines. Not all utilities participate in the service with the contractor and the public having a major risk that someone may not have marked the line. At the very least, tearing up a utility line could cost both the utility and the contractor money, disrupt service and delay the project. At the extreme end, striking a power line or a gas line could kill or severely injure a worker and others. The cost of participating in the one call system is paid for by the participating utility. This is a safety issue for all of Montana.

Proponents' Testimony:

Ken Dunham, representing the Montana contractor's association, stated that this is a proposal to strengthen and clarify the current law. The current law presently provides that information on underground utilities be filed with the local clerk and recorder's office. The clerk and recorders do not know really know what to do with that information, and it gets buried somewhere.

Bud Crier, with the underground utility location center, stated that when a contractor or an excavator calls the underground utility location center within three to six minutes after that contractor or excavator starts his call this request goes out to all utilities involved.

Bob Warner, gas engineer for Montana power company, stated that the third party damage is the leading cause of gas leaks. This law has been very effective in other states.

Dan Walker, representing US west communications, stated that

they support the bill as a utility and they support the bill as a contractor. This system would be most useful for them and will protect their facilities and services.

Gene Philips, appearing on behalf of pacific power and light and northwestern telephone, stated that neither of these companies appears on the Montana present list of subscribers. The purpose of his testimony is to urge the committee to amend this legislation to provide for the situation that currently exists in the Flathead. The Flathead has a different system called U DIG. The phone number is listed in the telephone directory, and a contractor or excavator can call in and get all of the information with respect to the people with the facilities will be notified so they know what construction in that area. He proposed to amend page 4 on line 10. Strike that language and insert "or in the service area".

Tom Barnard, chief engineer with Montana department of highways, stated that the department agrees with the purpose of this bill both in a construction and a maintenance standpoint. As written this bill would place an undo hardship on the department as well as the utility company. The department feels to have to call in just to do routine ditch maintenance would be an undo burden. There would be dozens of calls just in a week's time as this bill is written. He submitted his amendment to Bart Campbell to put into proper form.

Henry Lohr, representing the Montana state volunteer fire fighter association, stated that they are in support of this bill.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Thayer asked if the proponents all agree on the proposed amendments.

Senator Noble stated that they have talked with all the people involved and the amendments seem to be satisfactory to all involved.

Senator Williams asked if Bud Crier has ever thought of sending the contractors a fax of all the pipes located in the area.

Bud Crier replied that drawings are not always accurate and they do not want to take any chances with inaccuracies.

Senator Kennedy asked if there was an advertising or promotional type segment of this that lets people know who to contact to use this system.

Bud Crier replied that they have different utilities that belong to fliers and mailings, they advertise through the paper. The energy council advertises with an eight hundred number.

Senator Gage asked about section two where it reads "information to be sought before excavation" is there a penalty for a person that does not comply with this.

Ken Dunham stated that some states do have a penalty. They

are proposing to put this bill in and hopefully get everyone to do that without a penalty.

Closing by Sponsor:

Senator Noble closed by saying that this is a safety issue. There is voluntary notification now with the clerk and recorder's office. Everybody involved agrees with the amendments.

EXECUTIVE ACTION ON SENATE BILL 335

Motion:

Senator Thayer moved do pass the proposed amendments for SB 335.

Senator Thayer moved to do pass SB 335 as amended.

Discussion:

Senator Williams commented that he thinks this is a good bill.

Senator Gage commented that on page four of the bill sub three starting on line seven, a person having the right to bury underground facilities, which he assumes would cover the co-ops if they should be a member. If they don't have any underground facilities but they have the right to bury the facilities to. Are we mandating here that they have to become a member.

Bart Campbell replied that the language they see is right, but as heard in the testimony you only get a charge to you if someone is going to dig where you have one of your utilities. You might have to be a member, but it won't cost you anything.

Senator Gage asked what would happen to the folks if they don't belong to this, and then we say they should and something happens when they bury equipment.

Bud Crier stated that they have not been able to get out and talk to everybody, it was a voluntary service. Co-op was not a high priority at that time.

Amendments, Discussion, and Votes:

The amendments to SB 335 passed unanimously.

Recommendation and Vote:

SB 335 do passed unanimously as amended.

EXECUTIVE ACTION ON SENATE BILL 223

ROLL CALL

Business&Industry COMMITTEE

DATE 3/18/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Bruski	X		
Senator Franklin	X		
Senator Gage	X		
Senator Hager	X		
Senator Noble	X		
Senator Thayer	X		
Senator Williams	X		
Senator Kennedy	X		
Senator Lynch	X		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/18/91 Bill No. SB335 Time 10:00

NAME	YES	NO
Senator Bruski	X	
Senator Franklin	X	
Senator Gage	X	
Senator Hager	X	
Senator Noble	X	
Senator Thayer	X	
Senator Williams	X	
Senator Kennedy	X	
Senator Lynch	X	

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: Thayer TO AMEND

1987

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ROLL CALL VOTE

SENATE COMMITTEE Business and Industry

Date 2/18/91 Bill No. SB 33 Time 10:00

NAME	YES	NO
Senator Bruski	Y	
Senator Franklin	Y	
Senator Gage	Y	
Senator Hager	Y	
Senator Noble	Y	
Senator Thayer	Y	
Senator Williams	Y	
Senator Kennedy	Y	
Senator Lynch	Y	

Dara Anderson
Secretary

JD Lynch
Chairman

Motion: Thayer Do Pass As Amended

1987

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WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 18th day of February, 1991.

Name: Tom Barnard

Address: Montana Dept. of Highways
Helena, Mont.

Telephone Number: 444-6206

Representing whom?
Dept. of Highways

Appearing on which proposal?
SB 335

Do you: Support?____ Amend? X Oppose?____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DATE _____ 1/8/11

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Oppose
BERT E. WARNER	MONTANA POWER CO.	335	X	
NE PHILLIPS	PACIFIC POWER & LIGHT NORTHWESTERN TEL	SB335	X As Amend	
ry E. Lohr	Mt. State Val. Fire Fighters Ass	SB335	X	
n Dunham	MT Contractors' Assoc	SB335	X	
equeline N. Terrell	Am. Ins. Assoc.	SB324	X	
[illegible] Tarkiewicz	Mt. Auto Dealers Assn	SB324		X
chard Correll	National Car Rental	SB324		X
[illegible] DeMarois	Budget Rent A Car	SB324		X
[illegible]	US West Com	SB335	X	
Bud [illegible]	UULC	SB335	X	
ARRY AKEY	MT CAR RENTAL ASSOC	SB324		X
Steve Browning	State Farm Insurance	SB324	X	
Jim Paladichuk	MDU	335	X	

(Please leave prepared statement with Secretary)

SENATE STANDING COMMITTEE REPORT

February 18, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 335 (first reading copy -- white), respectfully report that Senate Bill No. 335 be amended and as so amended do pass:

1. Page 2, line 5.
Following: "maintenance"
Insert: "or road or ditch maintenance that does not change the original road or ditch grade or flow line"

2. Page 4, line 10.
Strike: ", either statewide or serving each county"
Insert: "covering the service area"

Signed: _____
John "J.D." Lynch, Chairman

2-18-91
Amd. Coord.

SB 2-18-91 2:30
Sec. of Senate

3714248C SB

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CHAIRMAN--BOB BACHINI
SECRETARY-JO LAHTI
NORMAL SCHEDULE==> SITE: ROOM 312-3 DAYS: M,T,W,T,F TIME: 8:00 A.M.

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0323	3/04	3/13		CONCUR		3/13
BECK, TOM			REVISING MOTOR VEHICLE DEALER LAW			
SB0330	3/04	3/19		CONCUR		3/20
MANNING, DICK			ALLOW BD OF HORSERACING EXEC SECY TO PRESCRIBE STATE STEWARD SALARY & DUTIES			
SB0335	3/04	3/14		CONCUR		3/14
NOBLE, JERRY			REVISE EXCAVATION PROCEDURES NEAR UNDERGROUND FACILITIES			
SB0360	3/04	3/14		CONCUR		3/14
GAGE, DEL			CONFIDENTIALITY AND EVIDENTIAL PRIVILEGE FOR ACCOUNTING REVIEW BOARDS			
SB0363	3/04	3/19		CONCUR		3/20
MANNING, DICK			REVISE SIMULCAST RACES AND EXOTIC WAGERING WITHHOLDING			
SB0369	3/18	3/22		TABLED ON 03/22		
JACOBSON, JUDY			PROHIBIT SALE OR DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS			
SB0394	3/04	3/15		CONCUR AS AMENDED		3/21
SVRCEK, PAUL			REGULATE CONDUCT OF UTILIZATION REVIEWS BY HEALTH INSURERS			
SB0424	3/04	3/15		CONCUR		3/15
HAGER, TOM			REVISE THE TERMS OF CONVERSION OF CERTAIN INSURANCE POLICIES			
SB0433	3/04	3/13		CONCUR		3/13
BECK, TOM			PROHIBIT COERCION OF CAR DEALERS TO FORCE THEM TO JOIN IN AD OR SALE PROGRAM			
SJ0008	2/05	2/08		CONCUR		2/08
BROWN, BOB			RESOLUTION TO CHARGE FDIC PREMIUMS ON DEPOSITS IN FOREIGN BRANCH OF US BANKS			

SENATE BILL NO. 335

INTRODUCED BY NOBLE, MESSMORE, WALLIN, RYE, HARP, KILPATRICK, WATERMAN, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EXCAVATION PROCEDURES NEAR UNDERGROUND FACILITIES; REQUIRING THAT ENTITIES AND PERSONS THAT HAVE THE RIGHT TO BURY UNDERGROUND FACILITIES BE MEMBERS OF ONE-CALL NOTIFICATION CENTERS; EXEMPTING PUBLIC AUTHORITIES FROM LIABILITY FOR IMPROPER OR UNAUTHORIZED INSTALLATIONS MADE BY OTHERS; AND AMENDING SECTIONS 69-4-501, 69-4-502, 69-4-503, AND 69-4-504, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-4-501, MCA, is amended to read:

"**69-4-501. Definitions.** The following definitions shall apply to this part:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Emergency" means:

(a) any condition that constitutes a clear and present danger to life or property; or

(b) a customer outage.

~~(1)~~(3) "Excavation" ~~shall--mean-and-include-any-ditch, trench,-cut,-hole,-or-change-in-grade~~ means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means or use of any tools, equipment, or explosives. The term includes but is not limited to grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe plowing and driving. Excavation does not include surface road grading maintenance OR ROAD OR DITCH MAINTENANCE THAT DOES NOT CHANGE THE ORIGINAL ROAD OR DITCH GRADE OR FLOW LINE.

(4) "Identified but unlocatable underground facility" means an underground facility that has been identified but cannot be located with reasonable accuracy.

(5) "Locatable underground facility" means an underground facility that can be field-marked with reasonable accuracy.

(6) "Mark" means the use of stakes, paint, or other clearly identifiable material to show the field location, or absence, of underground facilities, in accordance with the current color code standard of the American public works association. Marking must include identification letters indicating the specific type of underground facility, and the width of the facility if it is greater than 6 inches.

(7) "One-call notification center" means a service through which a person may request a marking of underground facilities.

~~(2)~~(8) "Person" ~~shall---mean--and--include~~ means an

individual, partnership, firm, joint venture, ~~or~~ corporation, association, municipality, governmental unit, department, or agency, and includes any trustee, receiver, assignee, or a personal representative thereof ~~the employer of an individual~~.

(9) "Reasonably accurate" means location within 18 inches of the outside lateral dimensions of both sides of an underground facility.

~~(3)~~(10) "Underground facility" ~~shall mean~~ means any ~~item of personal property~~ facility ~~which shall be~~ buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, fiber optics, electric energy, oil, gas, or other substances ~~and shall include~~. The term includes but is not ~~be~~ limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to the ~~aforesaid~~ listed items."

Section 2. Section 69-4-502, MCA, is amended to read:

"69-4-502. Information to be sought before excavation -- notification -- exception. (1) No person shall make or begin any excavation in any public street, alley, right-of-way dedicated to the public use, or utility easement without first obtaining information concerning the possible location of any underground facility from each and every public utility, municipal corporation, or other person

having the right to bury such underground facilities within the public street, alley, right-of-way, or utility easement.

(2) Every public utility, municipal corporation, or other person having the right to bury underground facilities shall file with the county clerk and recorder in each county where the underground facilities are located, the name, address, and telephone number of the person or persons from whom the necessary information may be obtained unless a one-call notification center is available.

(3) (a) A public utility, municipal corporation, underground facility owner, or person having the right to bury underground facilities must be a member of a one-call notification center~~, either statewide or serving each county~~ COVERING THE SERVICE AREA in which the entity or person has underground facilities.

(b) Subsection (3)(a) does not apply to an owner or occupant of real property where underground facilities are buried if the facilities are used solely to furnish services or commodities to that property and no part of the facilities are located in a public street, alley, or right-of-way dedicated to the public use."

Section 3. Section 69-4-503, MCA, is amended to read:

"69-4-503. ~~Procedure to secure information~~ Notification -- marking. (1) ~~Any person seeking information concerning the location of any underground facility must do so by~~

~~request--in--person,--in-writing,-or-by-telephone~~ At least 2 but not more than 10 business days before beginning any excavation, the excavator shall notify, through a one-call notification center, all owners of underground facilities in the area of the proposed excavation of the scheduled commencement of the excavation. If a one-call notification center service is not available, notice must be provided individually to the owners of underground facilities within the area of the proposed excavation.

(2) ~~The--person--from--whom--such-information-is-sought must-record-the-nature-and--the--date--of--the--request--and advise-the-person-seeking-the-information-of-the-location-of any--underground-facility-in-writing,-if-so-requested,-or-by marking-the-location--with--stakes--or--paint--or--by--other clearly--identifiable--markings.--The--person--providing-the information-must-respond-no-later-than-the-end-of-the-normal business-hours-of-the-second-full-business-day-following-the date-of-receipt-of--the--request,--Saturdays,--Sundays,--and holidays-excluded~~ Upon receipt of the notice provided for in this section, the owner of the underground facility shall provide the excavator with reasonably accurate information as to the owner's locatable underground facilities by surface marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of the facilities shall provide the excavator with the best

available information as to their locations. Excavators may not excavate until all known facilities have been marked. Once the facilities are marked by the facility owner, the excavator is responsible for maintaining the markings.

(3) Upon receipt of notice from the excavator, the facility owner shall respond within 2 business days by marking the facility. An excavator may not begin excavating before the marking is complete or before he is notified that marking is unnecessary.

(4) A facility owner may request the excavator to mark the area to be excavated. If an excavator discovers an unmarked underground facility, the excavator shall stop excavating in the vicinity of the facility and notify the facility owner or the one-call notification center."

Section 4. Section 69-4-504, MCA, is amended to read:

"**69-4-504. Information to be part of architects' and engineers' plans.** (1) Architects and engineers designing projects requiring excavation in or adjacent to any public street, alley, or right-of-way dedicated to public use or utility easement shall obtain information from the owners of underground facilities and then make ~~said~~ the information a part of the plan by which the contractors operate. The owners of the underground facilities shall provide substantially the same information as required by 69-4-503.

(2) Nothing in this section shall excuse any person

1 from the obligation imposed by 69-4-502(1)."

2 NEW SECTION. **Section 5. Public authority -- liability.**
3 A public authority, as defined in 18-1-201, that has
4 jurisdiction over a right-of-way is not liable for improper
5 or unauthorized installations made by persons or entities
6 other than the public authority or those acting at its
7 discretion.

8 NEW SECTION. **Section 6. Codification instruction.**
9 [Section 5] is intended to be codified as an integral part
10 of Title 69, chapter 4, part 5, and the provisions of Title
11 69, chapter 4, part 5, apply to [section 5].

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By **REP. BOB BACHINI, CHAIRMAN,** on March 14, 1991, at 8:00 A.M.

ROLL CALL

Members Present:

Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: SB 360 and SB 335 were to be heard and Executive Action taken on SB 335, SB 360, SB 272

Motion: **REP. BACHINI** announced before the Committee hearing begins, we have a motion by one of our Committee members. He recognized **REP. JOHN SCOTT** who moved to have a Committee Bill drafted. There has been a lot of legislation concerning juveniles and juvenile treatment and detention. The biggest problem with the bills we have is the funding. He asked to introduce a committee bill to require a $100 yearly permit fee to be charged on coin-operated amusement games machines. He is talking about Pac Mans, pinballs, etc. This industry is virtually unregulated. There is a $200 permit fee on poker and keno plus 15% of their

Closing by Sponsor:

SEN. GAGE said this is a good consumer protection bill. With that assurance of protection those review team people are going to be much more thorough and willing to question their peers in that whole review process, whereas if this is all information that is available, they would be less apt to be as thorough in what they are doing, especially if there is liability involved even though they may be sincere in what they are doing. If they don't have protection of some kind, they may be less apt to do as thorough a job. REP. BENEDICT will carry SB 360 on the House floor.

HEARING ON SENATE BILL 335

Presentation and Opening Statement by Sponsor:

SEN. JERRY NOBLE, SD 21, Cascade and Lewis & Clark Counties, is carrying this bill on behalf of the Montana Contractors' Association. It is an Act revising excavation procedures near underground facilities; requiring that entities and persons that have the right to bury underground facilities be members of one-call notification centers; exempting public authorities from liability for improper or unauthorized installations made by others; and amending several sections. In the Senate Committee there were no opponents, it passed 100% on the Senate floor. It is a very good bill and a good safety issue. Montana currently has a law providing for notification to contractors and others of the existence of underground facilities, such as power, gas, water, communication lines, etc. However, the law does not provide for that information to be centrally available to all who might excavate. Most utilities in the State participate in a one-call system in which they are notified about the upcoming excavation near their lines. The utility then marks their line locations prior to excavation by the contractor allowing the work to proceed with safety and no damage to lines.

Not all utilities participate in this service where the contractor and the public have a major risk that someone may not have marked a line. At the very least tearing up utility lines is going to cost both the utility and contractor money, disrupt service and delay the project. At the extreme end striking a power line or natural gas line could kill or severely injure a worker and others. Such accidents have happened in Montana, one as recently as last year. The cost of participating in the one-call system is paid for by the participating utilities. This is a safety issue for all Montanans.

Proponents' Testimony:

Ken Dunham represented the Montana Contractors' Association. This bill is above and beyond a safety issue for Montanans. Most of us have assumed the one-call system was in place throughout the State and was working well, and it is. Where Montana's one-call

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law falls a little bit short is that it does not require everybody to participate in it. They would like to see the bill strengthened to require all utilities that have underground installations to be part of a one-call system. Underground construction is among the most dangerous construction around. When digging into the ground you have no idea what is under there until you get down six or eight inches. This is also an issue for other than construction companies. People who dig in their backyards have no idea of what utility lines are located under there. Everyone has seen the posters about calling before you dig. This bill is the result of a number of meetings over the past year between people in the construction industry, various utilities involved, and a number of the municipal governments from around the state have had participation in this bill.

The second part of the bill is a cost issue. It is expensive to hit an underground line of any sort. A segment of the new fiber optic line would cost about $500,000 to replace. It is an expense item for everybody involved. The cost of a utility to participate in a one-call system is very, very minimal. It is about $204 for the first 160 calls; the calls average $1.23 after that so it is not a major issue costwise to a utility and it is something borne by the utility, not the consumer. He hoped the Committee would support the bill.

Dan Walker, representing U.S.West, supports SB 335 which requires entities such as U.S.West to belong to a one-call system, not only as a utility company but as a contractor. They are often digging and excavating to put in new facilities and repair those that need it. They recognize and appreciate the value of having a one-call system in place, and recognize the safety factor. For those contractors that are new to our area it is most helpful to them as they are going into the business of doing their work. They have been supportive of this legislation. They have been involved in helping develop it over the past few years and think it is good legislation. It has been proven in other areas and is an extension of the law we already have in place which has been working quite well for the past several years.

Gene Phillips, Pacific Power & Light, and the Northwestern Telephone Systems, stated they also support this legislation. They have had in effect in the Flathead area for a number of years a system called "You dig" which is listed in the telephone directory. Anybody who is preparing to do any excavation can call that number and they will notify Montana Power Company, Pacific Power & Light, Northwestern Telephone, Flathead Electric and local cable TV companies to go out and mark their facilities in the area where the excavation is going to occur. Because they have had that system in place, they requested an amendment to the bill which the Senate did put in which requires that if there is already a one-call notification center covering the service area of the entity, Page 4, line 14, you don't have to be part of the statewide system. Since they already have such a system in place, they asked for that amendment. With that amendment, they think it

is a very good piece of legislation, and strongly urge concurrence in it.

Leo Berry, attorney in private practice in Helena, represents MCI, a long distance telecommunications Company, and for the reasons stated by the previous witnesses, MCI would like to go on record as supporting SB 335.

Henry Lohr, representing Montana State Volunteer Firefighters Association, explained what the Broadwater Fire Chief in Townsend found when he was called about the gas leak in the Yellowstone Pipeline which runs from one end of Broadwater County to the other. A good sized crawler had ripped into the gas pipeline and it was shooting gas up out of it. It was premium gas at that time. It was on a hill. The gas was running down towards the railroad tracks. They had to call Burlington Northern and shut down the railroad that day in case sparks would ignite the gas. If this system had been in effect and he had used it, the crawler operator would have saved himself a lot of lawsuits and a lot of other problems. He supports SB 335.

Bob Warner, a gas engineer for the Montana Power Co, urged support for SB 335. Far and away the greatest cause of damage to their underground gas facilities is third-party damage or dig-ins. Some of them can be quite serious. This is a good step in the prevention that has been pretty much adopted nationwide, and is supported by the department of transportation. He urged support for this measure.

Tom Barnard, Chief Engineer with the Montana Department of Highways, supports this bill as amended by the Senate.

Bud Griner is the Montana representative of the Underground Utility Location Center. He illustrated on a map showing the 56 counties in Montana the ones that belong to the two-in-one-call system. All the states are pushing in the direction towards the mandatory system. When a person is going to excavate, if the excavator makes one call 1-800-424-5555 he gets the Underground Utility Location Center. The person at the Center advises the conversation is being recorded. Everything that comes in and goes out of that Center is recorded. All that can be pulled off the recordings as well as off the paper work. It is kept for 6-1/2 years at separate locations. The information is passed off to any of the subscribing utilities, water, lights, gas, sewer, telephone, TV. **EXHIBIT 1 - Making a Quick and Complete Locate Request.**

A normal location request, if the caller has the proper information and allows them to lead the conversation, takes about three minutes to get a call in. That is passed back to the subscribing utilities in that area within another three to five minutes. They also request the excavator to mark in white the excavation area so the utility doesn't have to locate a lot of area, just the area to be dug into. The utility has until the

second business day to locate the requested area. Not everybody can wait that long a time and the utility surely doesn't wait until the last minute, they try to get out there as soon as possible. The Center requires the name of the excavator, the contractor, time of starting to dig, etc. The utility is to be notified at the end of the conversation. The Center tells the caller who in that area will be notified, in Helena AT&T, Sprint, Montana Power, U.S.West and also tells them anybody else. They will have to find out who has any other facility in that area. By law the utilities have to have that recorded with the Clerk and Recorder in that County. Sometimes the Clerk and Recorder has problems finding that information if the utility has supplied them with the information. The utility receives the information the Center has obtained from the caller.

This was started in February 1989 and has rapidly increased since. In 1990 there were 72,736 calls to utilities from the Center. There are 41 utilities presently subscribing who are in the process of doing their paper work; among them are the Blackfoot Telephone, Mid Rivers, Montana-Dakota, Branch Tel-CoOp, U.S.West Communications, Montana Power Co., Namont, City of Great Falls, City of Shelby, Montana Refining Pipelines, Premier Communications which is a TV company out of Missoula, local gas companies, etc.

There are three ways a call can be received. One is by printer, two is by Fax, three is by telephone. The printer and the Fax both cost $1.23 per locate request. There is a minimal charge of $204 which allows 166 calls, after that it is $1.23 per call. The telephone takes more time to use and requires repeats and usually costs $1.75 per call. If the Fax averages over 100 calls a month they request that be given to a printer. The printer and the Fax have to talk to each other. At the end of the day to make sure you have all the calls that came in, there is also a form sent out showing the locate request numbers for each utility that have been received that day so they can be verified.

There are four types of notifications: One is the regular type where the excavator calls in today and he is going to dig several days ahead, no problem, just a normal locate request. The second case is a short notice when he calls in today and wants to start digging in the morning. The utility and the excavator should get together and make proper arrangements. Third, the crew is on site, the excavator is on his machine and wants to start digging. The Center gets that call and usually from the time the excavator puts in the phone call, they get someone out there as soon as possible. Fourth, an emergency call is made to the utility. They get the printed copy with bold lettering at the top, and a telephone call to make sure they have received the locate request.

They are in the process of setting up a grid system in the State in the seven communities that have approximately 90% of the locate requests, which are Yellowstone, Gallatin, Lewis & Clark,

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Cascade, Silver Bow, Missoula, and Ravalli. In these seven counties there is no additional charge to the utilities. They are putting it in so they can cut down the area they get calls for that aren't needed. In a rural area they will be able to get the locate request down to a quarter section. In the city down to approximately one to one-tenth of a mile or a city block.

The maps they are using are scaled down to one-tenth of a mile. If a utility has nothing in the map's area, they write in 'none'; on those that have facilities, they indicate where they are. All county and city maps in the state will be available, and if there is a problem locating that specific spot the caller and the Center can get together and between the two they can pinpoint it.

They were asked how they advertise this. As of the first of the year he started doing some of the advertising. He travels all over the State. The utilities get together and have a contractors' meeting, where they have a dinner and invite the contractors in and they answer questions and go over anything that makes it work better. They have been doing this for several years. By the end of April he will have presented this program to 600 contractors and numerous utilities in the Eastern end of the State. That is one of the ways they advertise. They do have some material the utilities purchase at cost and they hand out as they travel. One is the sheet of paper that basically tells the format for calling in a locate request. There is a calendar and a poster. He stops in at all the construction units, utilities, cafes, bars, anyplace people congregate, gives them a calendar and request they hang up the photo as a reminder. That is some of the material they now have. Contractors like the little calendars they put under their dashes that have the Center number on them, key chains, stickers saying "Call before you dig", and request they put that on all their digging equipment. They use newspaper, TV, printed articles in the utility bills, etc.

<u>Opponents' Testimony</u>: None

<u>Questions From Committee Members</u>:

REP. SHEILA RICE said she works for the Great Falls Gas Company who participate in this program, and is in favor of the bill. She asked how the cost of the Center is handled. Is it passed on to the consumer when it is considered by the Public Service Commission when setting rates? **Gene Phillips** said he did not know whether these costs were considered in their last rate case or not as part of their operating costs. He will check to see if he can identify that. He would assume it is passed on.

REP. RICE asked if he knew this was a cost of doing business under the PSC rules. **Mr. Walker** didn't know with absolute certainty. He agrees with you 99% it is a regular cost of doing business and is passed on. They do not belong to the one-call system in Montana.

REP. RICE asked who he worked for. **Mr. Griner** said he worked for the Underground Utility Location Center which is located in Bellview, Washington. It is a business property. The price per call is basically unregulated. When this was set up in Montana, he wasn't working for the Center at that time. They shopped around and got the most inexpensive facility possible. If they get the number of calls going into the system increased to well over 50,000 calls a year, then they would consider putting a Center here in Montana. They have the most inexpensive system on the market today.

REP. BARNETT asked if this system gets in place you are talking about a general contractor who has a number at which you could call him. What about a private individual with a backhoe who is going to do some work on his place. Would he be able to access this system? **Mr. Griner** advised anybody can access this system by calling their 800 number and all the utilities will be notified. The citizen who only digs once every five years is the hardest person to get to. They are addressing that problem by going around handing out posters in public areas. They are involved with the energy council. There are billboards with the 800 number on it "Call before you Dig". The local utility companies advertise in the paper, on TV and in the telephone directory under 'Underground Location'.

REP. BARNETT asked in regard to the amendment you were able to get in in the Senate, would this system if a person wanted to call in your area, would he be able to call this 1-800 number and reach you? **Mr. Phillips** explained there is a listing in their local telephone directory that covers the Flathead area. It is known as 'You Dig". It is a local number. You are connected with a Center that provides the same information as that provided out of Bellevue, but it is a different phone number. If the 1-800-424-555 number was called in their area, the Bellevue office would refer them to the Flathead number. There is a little overlap along the edges where the systems come together, in the West Glacier area where U.S.West serves, you can call that number also.

Closing by Sponsor:

SEN. NOBLE thought the Committee agrees this is a nice safety bill and will be some real help to everybody. They had some small amendments done in the Senate committee, all the glitches are out of it. It is a very pure bill and hoped it would be kept on its way. **REP. SONNY HANSON** would carry SB 360 in the House.

EXECUTIVE ACTION ON SENATE BILL 335

Motion/Vote: **REP. DOWELL moved SB 335 BE CONCURRED IN. Motion passed by all those present.**

HOUSE OF REPRESENTATIVES

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE March 14, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. JOE BARNETT	✓		
REP. STEVE BENEDICT	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. STELLA JEAN HANSEN	✓		
REP. H.S."SONNY" HANSON	✓		
REP. TOM KILPATRICK	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. BOB PAVLOVICH	✓		
REP. JOHN SCOTT	✓		
REP. DON STEPPLER	✓		
REP. ROLPH TUNBY	✓		
REP. NORM WALLIN	✓		
REP. SHEILA RICE, VICE-CHAIR	✓		
REP. BOB BACHINI, CHAIRMAN	✓		

Exhibit #1 3/17/91 SB 330

U.U.L.C. LOCATION REQUEST

#

ntractor #	S/N?	County

ty, Town, or Area Name	I/O

. Address

nshp/Range/Sect/Qtr Section

pe of Work

tent of Work

art Date	Start Time

Name of Caller

itle	Phone #	Return Call

Contractor

ntractor Address

Utilities To Be Notified

Call before you dig
1-800-424-5555 (ID, MT, ND, OR, WA)

Making a Quick and Complete Locate Request

When you make a call to the Utilities Underground Location Center (UULC), you can be off the phone in no time...if you are prepared to give complete information in the order required by the computer.

If you start right off spilling out the information in just any random order, you might be on the phone for a while, as the attendant moves the insertion point around on the screen to try and get everything into the right slots. It's kind of like digging holes here and there and hoping they'll all come together to form a trench when you're finished.

Computers have their own sense of what's logical. That logic is determined by some overall scheme of things that may not seem logical when items are looked at individually. For example, most callers want to give their names right away when the phone is answered at the UULC. But, the caller's name is well down the list in the order required by the computer.

Next time you call in a notification to the UULC, try giving your information in the following order and see how much faster you get off the phone. Having complete information on hand before you place your call helps.

1. **Contractor Number:**
   Frequent callers are usually assigned a "Contractor Number" which they can give the UULC operator. When keyed into the computer, this number automatically brings up the name, address, and phone number of the caller's firm. Anyone can request a Contractor Number.
2. **County and State:**
   Where the digging is to take place.
3. **Municipality:**
   The nearest city or community to the dig site. For metropolitan areas, a suburb name may be needed.
4. **Address:**
   Urban: Specific street address or nearest cross streets with directionals (East, West, North, South) etc., and whether it is an Ave, St, Ct, Pl, Rd, Dr. etc. New developments and lot numbers are helpful. We can put multiple addresses on the same ticket if the addresses are on the same street and block.
   Rural: Closest road or highway with specific instructions on how to get to the dig site. Name of the residence is helpful. Post Office Box or Route numbers are not. We will soon have additional screening capabilities for hard to find, rural, unaddressed areas, or new addresses. It will be helpful for you to know the Zip Code for the area and the Township, Range, Section and Quarter Section of your site. This information will help ensure accurate utility notification. In the case of unnamed streets or roads, be prepared to give directions to the site from the nearest city or area name that you have given.
5. **Type of Work:**
   Be specific - landscaping, installing/repairing a utility line, installing a fence, digging a basement, etc.
6. **Extent of Work:**
   Give precise details, including beginning and ending point where digging will be taking place. For extensive jobs, set up a meeting with the locators to explain the extent of the work. Pre-marking the dig area with white paint is also helpful.
7. **Name of Caller:**
   Give your first and last name in case a utility needs to contact you.
8. **Job Title:**
   This can also assist a utility in contacting you within your company.
9. **Start Date and Time:**
   The time when you plan to start digging. In most states, this must be at least 48 hours (two business days) after you call the UULC.
10. **Phone Number:**
    The number where you can be contacted during business hours.
11. **Best Time to Call:**
    Time when you can be reached at that number.
12. **Name of Contractor:**
    Person who is actually doing the digging.
13. **Contractor Address:**
    ... of person actually doing the work.

When the above information has been provided, the caller is given the names of the utilities who will be notified. The caller is also advised that other facility owners who are not UULC members may have lines at the dig site, and they will have to be notified individually.

Each caller is also given a "Request Number". This number should be kept with the job file and used in all subsequent queries regarding a particular locate request. The number contains eight digits, the first four of which indicate the year and week of the request. It should not be confused with a telephone number.

*Note: A handy wallet size card is also available with this format.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE BILL NO. SB 335

DATE MARCH 14, 1991 SPONSOR(S) SEN. NOBLE

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
GENE PHILLIPS	PACIFIC POWER & LIGHT NORTHWESTERN TEL.	SB 335		X
Henry E Lohr.	Mt. St. Vol. Firefighters Ass	SB 335		X
BOB WARNER	MONTANA POWER CO	SB 335		X
Bud Crimer	UULC	SB 335		X
Tom Barnard	Mont Dept of Highways	SB 335		X
KEN DUNHAM	MT CONTRACTORS' ASSOC	SB 335		X
Ken Young	Cable Montana	SB 335		X
D. YOUNG	CABLE TV	SB 335		X
Don DeShaw	Cable TV of Harlo	SB 335		X
Tom Glendenning	TCI CABLEVISION	SB 335		X
Leo Berry	MCI	SB 335		X
DAN WALKER	US WEST	SB 335		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

1:50
3-14-91
JDB

HOUSE STANDING COMMITTEE REPORT

March 14, 1991

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 335 (third reading copy -- blue) be concurred in .

Signed: _____
Bob Bachini, Chairman

Carried by: Rep. Hanson

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SENATE STANDING COMMITTEE REPORT

March 25, 1991

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 335 (third reading copy -- blue), respectfully report that House Bill No. 335 be amended and as so amended be concurred in:

1. Page 5, line 9.
Strike: "mills"
Insert: "permissive amount to be"
Following: "levied"
Strike: "in support of the permissive levy of"
Insert: "for"

2. Page 5, line 11.
Strike: "general fund budget"
Insert: "foundation program"

3. Page 5, lines 12 and 13.
Following: "to the" on line 12
Insert: "foundation program"
Following: "programs"
Strike: remainder of line 12 through "district" on line 13

4. Page 20, line 8.
Following: line 7
Insert: " NEW SECTION. Section 12. Coordination instruction. If House Bill No. 470 is passed and approved, then [section 4 of this act] must read as follows:

"Section 4. Tenure protected -- hiring preference for noncertified employees. (1) Whenever an elementary district is attached to a high school district to form a K-12 school district under the provisions of [section 1], a district superintendent, principal, teacher, or other certified employee of the elementary district who has a right of tenure under Montana law continues to have tenure in the K-12 district and the board of trustees of the high school district in which the person will perform duties shall recognize and give effect to the right of tenure.

(2) A noncertified, nonprobationary employee of an elementary district that is attached to a high school district to form a K-12 district must be given preference in hiring for any position with the K-12 district for which the employee has substantially equal qualifications and, upon acceptance of a position, may not be given probationary status.""

Renumber: subsequent section

Signed: Chet Blaylock
Chet Blaylock, Chairman

3-25-91
Amd. Coord.

SB 3-25 12:15
Sec. of State

SENATE
HB 335

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SENATE BILL NO. 335

INTRODUCED BY NOBLE, MESSMORE, WALLIN, RYE, HARP, KILPATRICK, WATERMAN, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EXCAVATION PROCEDURES NEAR UNDERGROUND FACILITIES; REQUIRING THAT ENTITIES AND PERSONS THAT HAVE THE RIGHT TO BURY UNDERGROUND FACILITIES BE MEMBERS OF ONE-CALL NOTIFICATION CENTERS; EXEMPTING PUBLIC AUTHORITIES FROM LIABILITY FOR IMPROPER OR UNAUTHORIZED INSTALLATIONS MADE BY OTHERS; AND AMENDING SECTIONS 69-4-501, 69-4-502, 69-4-503, AND 69-4-504, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-4-501, MCA, is amended to read:

"**69-4-501. Definitions.** The following definitions shall apply to this part:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Emergency" means:

(a) any condition that constitutes a clear and present danger to life or property; or

(b) a customer outage.

~~(1)~~(3) "Excavation" ~~shall--mean-and-include-any-ditch, trench,-cut,-hole,-or-change-in-grade~~ means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means or use of any tools, equipment, or explosives. The term includes but is not limited to grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe plowing and driving. Excavation does not include surface road grading maintenance OR ROAD OR DITCH MAINTENANCE THAT DOES NOT CHANGE THE ORIGINAL ROAD OR DITCH GRADE OR FLOW LINE.

(4) "Identified but unlocatable underground facility" means an underground facility that has been identified but cannot be located with reasonable accuracy.

(5) "Locatable underground facility" means an underground facility that can be field-marked with reasonable accuracy.

(6) "Mark" means the use of stakes, paint, or other clearly identifiable material to show the field location, or absence, of underground facilities, in accordance with the current color code standard of the American public works association. Marking must include identification letters indicating the specific type of underground facility, and the width of the facility if it is greater than 6 inches.

(7) "One-call notification center" means a service through which a person may request a marking of underground facilities.

~~(2)~~(8) "Person" ~~shall---mean--and--include~~ means an

REFERENCE BILL

Montana Legislative Council

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individual, partnership, firm, joint venture, ~~or~~ corporation, association, municipality, governmental unit, department, or agency, and includes any trustee, receiver, assignee, or a personal representative thereof ~~the employer of an individual~~.

(9) "Reasonably accurate" means location within 18 inches of the outside lateral dimensions of both sides of an underground facility.

~~(3)~~(10) "Underground facility" ~~shall mean~~ means any ~~item of personal property~~ facility ~~which shall be~~ buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, fiber optics, electric energy, oil, gas, or other substances ~~and shall include~~. The term includes but is not be limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to the ~~aforesaid~~ listed items."

Section 2. Section 69-4-502, MCA, is amended to read:

"69-4-502. Information to be sought before excavation -- notification -- exception. (1) No person shall make or begin any excavation in any public street, alley, right-of-way dedicated to the public use, or utility easement without first obtaining information concerning the possible location of any underground facility from each and every public utility, municipal corporation, or other person

having the right to bury such underground facilities within the public street, alley, right-of-way, or utility easement.

(2) Every public utility, municipal corporation, or other person having the right to bury underground facilities shall file with the county clerk and recorder in each county where the underground facilities are located, the name, address, and telephone number of the person or persons from whom the necessary information may be obtained unless a one-call notification center is available.

(3) (a) A public utility, municipal corporation, underground facility owner, or person having the right to bury underground facilities must be a member of a one-call notification center~~, either statewide or serving each county~~ COVERING THE SERVICE AREA in which the entity or person has underground facilities.

(b) Subsection (3)(a) does not apply to an owner or occupant of real property where underground facilities are buried if the facilities are used solely to furnish services or commodities to that property and no part of the facilities are located in a public street, alley, or right-of-way dedicated to the public use."

Section 3. Section 69-4-503, MCA, is amended to read:

"69-4-503. ~~Procedure to secure information~~ Notification -- marking. (1) ~~Any person seeking information concerning the location of any underground facility must do so by~~

~~request--in--person,--in-writing,-or-by-telephone~~ At least 2 but not more than 10 business days before beginning any excavation, the excavator shall notify, through a one-call notification center, all owners of underground facilities in the area of the proposed excavation of the scheduled commencement of the excavation. If a one-call notification center service is not available, notice must be provided individually to the owners of underground facilities within the area of the proposed excavation.

~~(2) The--person--from--whom--such-information-is-sought must-record-the-nature-and--the--date--of--the--request--and advise-the-person-seeking-the-information-of-the-location-of any--underground-facility-in-writing,-if-so-requested,-or-by marking-the-location--with--stakes--or--paint--or--by--other clearly--identifiable--markings.--The--person--providing-the information-must-respond-no-later-than-the-end-of-the-normal business-hours-of-the-second-full-business-day-following-the date-of-receipt-of--the--request,--Saturdays,--Sundays,--and holidays-excluded~~ Upon receipt of the notice provided for in this section, the owner of the underground facility shall provide the excavator with reasonably accurate information as to the owner's locatable underground facilities by surface marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of the facilities shall provide the excavator with the best

available information as to their locations. Excavators may not excavate until all known facilities have been marked. Once the facilities are marked by the facility owner, the excavator is responsible for maintaining the markings.

(3) Upon receipt of notice from the excavator, the facility owner shall respond within 2 business days by marking the facility. An excavator may not begin excavating before the marking is complete or before he is notified that marking is unnecessary.

(4) A facility owner may request the excavator to mark the area to be excavated. If an excavator discovers an unmarked underground facility, the excavator shall stop excavating in the vicinity of the facility and notify the facility owner or the one-call notification center."

Section 4. Section 69-4-504, MCA, is amended to read:

"**69-4-504. Information to be part of architects' and engineers' plans.** (1) Architects and engineers designing projects requiring excavation in or adjacent to any public street, alley, or right-of-way dedicated to public use or utility easement shall obtain information from the owners of underground facilities and then make ~~said~~ the information a part of the plan by which the contractors operate. The owners of the underground facilities shall provide substantially the same information as required by 69-4-503.

(2) Nothing in this section shall excuse any person

1 from the obligation imposed by 69-4-502(1)."

2 NEW SECTION. **Section 5. Public authority -- liability.**
3 A public authority, as defined in 18-1-201, that has
4 jurisdiction over a right-of-way is not liable for improper
5 or unauthorized installations made by persons or entities
6 other than the public authority or those acting at its
7 discretion.

8 NEW SECTION. **Section 6. Codification instruction.**
9 [Section 5] is intended to be codified as an integral part
10 of Title 69, chapter 4, part 5, and the provisions of Title
11 69, chapter 4, part 5, apply to [section 5].

-End-